

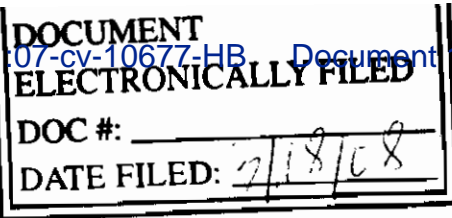


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Case 1:07-cv-10677-HB Document 10



MAR 10 2008  
Filed 03/18/2008 Page 1 of 3  
HAROLD BAER  
U.S. DISTRICT JUDGE  
S.D.N.Y.

Thomas W. Kirby  
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March 7, 2008

The Honorable Harold Baer, Jr.  
Daniel Patrick Moynihan  
United States Courthouse  
500 Pearl Street, Room 2230  
New York, NY 10007

Re: *Kaplan, Inc. v. Chang, et al.*; No. 1:07-cv-10677 (HB)

Dear Judge Baer:

Enclosed is a courtesy copy of the First Amended Complaint filed in the above action. This First Amended Complaint was docketed on March 6, before any defendant had responded to the original complaint.

The First Amended Complaint reflects the results of research and discussions with two of the named defendants after the action was commenced. Critically, the First Amended Complaint adds a new individual defendant, Kenneth Chou, based on information that he is directly involved in the infringement of plaintiff's copyrighted works that this action seeks to redress. The First Amended Complaint also drops one of the original defendants, Hamid Torshizy. It adds language indicating that defendant Benny Y. Chang may also be dismissed in the near future, if information he has provided is confirmed. Additionally, it adds a count alleging infringement of plaintiff Kaplan, Inc.'s trademarks during the course of the same pattern of conduct originally alleged.

Kaplan intends to serve Mr. Chou as soon as practicable within the next several days. The immediate next step in the case will be to seek authority from the Court to take discovery of Mr. Chou limited to identifying what associated persons and entities are engaged in the alleged unauthorized copying of Kaplan's works. Until these defendants can be identified and brought before the Court, it will be difficult to advance the case in the other respects. Kaplan has no other matter to raise at the PTC now scheduled for March 20. If that authority can be granted without a conference, it might make sense to set the PTC for a later date, given that

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Mr. Chou likely will be served only a few days prior to March 20.

Sincerely yours,



Thomas W. Kirby (TK 2182), *pro hac vice*  
Counsel for Plaintiff, Kaplan, Inc.

Enclosure

cc: All defendants of known identity that have been located  
Scott Eric Bain (SB 1255), Counsel for Kaplan, Inc.

3/18/08  
I am reluctant to  
provide a deposition  
of a currently non  
party before that  
"has an opportunity  
to object - after he is  
served and a named D. if  
that's your plan, it may be  
appropriate but act this would  
be clear at least to meet the PTC  
want forward on the 20th please  
come by & be sure any and all  
would be notified to be here  
with if you wish to have the  
PTC but please for you & any self  
wishes this party. See KDBED  
Demand Letter  
C-DS

Endorsement:

I am reticent to provide a deposition of a currently non party before that non party has an opportunity to object - after he is served and a named defendant if that's your plan, it might be appropriate but all this would be clearer at least to me if the PTC went forward on the 20<sup>th</sup>. Please come by and be sure any and all served defendants are notified to be here as well. If you wish to have the PTC by phone for you and any other out of town parties call Chambers.